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Waste Management Series 1990

"The Waste Management Crisis; A Shared Responsibility"

Brief To
Provincial/Municipal Policy Forum
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Association of Municipalities of Ontario

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REPORT ON POLICY FORUM ON WASTE MANAGEMENT

At the Policy Forum of April 19th the AMO delegation made a strong presentation highlighting the issues outlined in this Brief. The Ministers and their staffs were attentive and active participants and provided specific responses on several of the issues raised.

On issues within the planning and approvals process the Minister of the Environment recognized that there was a need for some form of an interim acceptance of waste management master plans in process. The Minister also indicated that the generic waste management system models were in the process of being completed. The Minister also recognized the need for quicker turnaround time for government reviews of municipal submissions but was not optimistic that 60 days was likely to be frequently achieved.

On the issue of the status of the Ministry of the Environment's waste diversion targets, which does not include energy from waste, and the issue of energy from waste as part of process, the Minister stated that the process need not be sequential as many people are currently interpreting the policy. He indicated that municipalities may go ahead with plans for energy from waste now but they must also attempt to meet the 25% and 50% waste diversion targets at the same time.

The Minister also indicated his agreement to the idea of a meeting being arranged between himself and his staff and municipal waste management master plan steering committee representatives to discuss matters of common concern.

INTRODUCTION AND BACKGROUND

The Association of Municipalities of Ontario is pleased to have the opportunity for this in-depth one issue policy discussion with these Ministers. As the subject of the first Policy Forum in the new Provincial/Municipal consultation process we have chosen the waste management crisis. This issue was chosen because of the urgent need for improved cooperative action between the provincial and municipal governments to resolve a serious crisis that cannot be resolved by either level of government acting alone.

AMO wishes to highlight the key waste management issues that require immediate provincial action. At the same time AMO is also hopeful that the Ministers will use the opportunity to clarify their policies and indicate the commitments they will encourage their government to make, and that they expect of all parties, necessary for a comprehensive solution.

At its last two annual conferences AMO has surveyed municipal delegates to find out what are the most pressing problems facing Ontario municipalities. In 1988 waste management was the key issue, in 1989 finance was the most /pressing issue followed by environmental regulations and waste management. The three are closely interrelated.

In response to this strong membership concern AMO formed a Waste Management Committee to create a series of reports on waste management issues and to liaise with the Ministry of the Environment, relevant public interest and private sector groups and municipalities. The AMO Waste Management Committee has engaged in extensive consultation with representatives from all of these groups and has produced two reports, "The Waste Management Planning and Approvals Process," released in March of 1989 and "The Municipal Waste Abatement Strategy" released in November of 1989.

The AMO Waste Management Series reports are designed to be both educational reference documents for municipal councils and their staffs, and to make substantive recommendations to all levels of government for improvements in policy. The reports strive to represent the municipal perspective with reasonable and objective analysis and to recognize past errors and recommend reforms at the municipal level as well as other levels of government. As well, the reports note where positive actions are being taken and give credit where it is due.

Since 1980 the Environmental Assessment Act has applied to new municipal waste management undertakings; it did not apply or did not even exist when most of the existing waste disposal sites were created. The Environmental Assessment Act requires a complex and comprehensive approvals process, including a review of alternative systems impacts on a broadly defined environment, to be completed by municipalities before they can proceed with implementing waste management systems.[1]

This legislation, along with the increasing public concern for environmental issues and increasing costs of environmentally safe waste management systems, has caused municipalities to consider waste management issues in ways they have never had to before. Waste disposal is now widely recognized as the least preferable alternative due to its environmental and economic impact. The generally accepted hierarchy of reduction, reuse, recycling and recovery clearly expresses the preferred ways of dealing with solid waste. However, the current lack of necessary infrastructure and legislation means that substantial disposal systems still must be undertaken. According to Ministry of the Environment data for the fall of 1988, more than three hundred municipalities in Ontario had less than a five year capacity in their landfill sites left. Of these three hundred, one hundred and sixty had less than two years left. Experience has shown that under the current environmental assessment system at least six years is necessary from commencement of an environmental assessment study to obtaining approvals.

The Government of Ontario has an essential lead role to play in solving the problems of the waste management crisis. The provincial government has exclusive control over most of the relevant legislation including the environmental approvals process, municipal statutory authority, and regulation over the material inputs for and the design, manufacture, distribution and use of, the products and materials that end up in the waste stream. These

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[1]. See Sections 1 (c) and 5 of the Environmental Assessment Act for definitions of Environment and description of what an environmental assessment study must include. Certain components of municipal waste management systems, like recycling, have so far not been required to comply with the Environmental Assessment Act. However, it may be possible that future large recycling or materials separation or composting plants may become subject to the Act.

latter areas of necessary government activity relate to provincial, national and even international markets and are well beyond the control of municipalities.

Through the Environmental Assessment Act and the waste diversion goals of 25% by 1992 and 50% by the year 2,000, the Government of Ontario has clearly expressed vital principles and goals for the protection of the environment. AMO is strongly supportive of these principles and goals.

The Association believes however, that these principles and goals are simply unattainable under current provincial government environmental assessment practices and without a provincial waste abatement strategy that promotes a comprehensive and integrated waste management system reflecting the hierarchy of reduction, reuse, recycling and recovery.

AMO recognizes that the provincial government is facing increasing strains on its resources; municipalities are experiencing these pressures as well. In this situation establishing priorities is even more difficult and important. The Association believes that addressing the waste management crisis now will mean far less cost for Ontario in the future.

The Association urgently needs the assistance of the Ministers present today in addressing the waste management crisis in the following areas:

- **Streamlining the waste management planning and approvals process.**
- **Development and implementation of a provincial waste abatement strategy.**
- **Statutory reform of municipal waste management authority.**

THE PLANNING AND APPROVALS PROCESS

Most Ontario municipalities are currently engaged in long term planning for waste management under the Ministry of the Environment's Waste Management Master Plan Program. This program is subject to Environmental Assessment Act level of study and approvals procedures.

The laudable goal of the current provincial waste management planning and approvals process is the creation of environmentally responsible waste management systems. However, the unnecessary procedural difficulties faced by municipalities involved in this provincially run process divert most of the energy and attention away from long and short term waste abatement policies and toward the government approvals process for waste disposal sites.

Lack of a clear provincial direction regarding what is acceptable under the environmental assessment process has caused some municipalities major setbacks in their waste planning process. This lack of direction leads to a lack of understanding at both the provincial and municipal levels. For example, the County of Wellington study was commenced in 1983 and has so far cost some $900,000.00. Two years ago the study was completely revised. Very recently the decision has been made to start the landfill site selection process of the study from the beginning again. This is the most important section of the report and the Environmental Assessment Board's recent decision regarding the North Simcoe County study has caused Wellington County to be concerned about its study process. Wellington County may well spend another 18 months and $600,000 revising this part of its study.

The Regional Municipality of Peel started its waste management study in 1982. In 1988 the Ministry of the Environment rejected the region's landfill environmental assessment submission. The reason given for the rejection was that decisions made by the municipality in 1984 to reject five candidate sites, did not meet the process requirements of the Environmental Assessment Act. The Ministry of the Environment had been aware of the region's decision making process in 1984, but did not give a clear statement that it was unacceptable until 1988. By this time the region had spent some $4,000,000 on the landfill portion of its waste management study.

Ottawa-Carleton's waste management master plan study started in 1984 and has to date cost some $1,500,000. The Environmental Assessment Board's decision on Halton Region's landfill environmental assessment, caused Ottawa-Carleton to start an interim review of its master plan process in the summer of 1989. That interim review also considered the North Simcoe County Environmental Assessment Board decision which came after the Halton decision. The Ottawa-Carleton interim review recommends that their current study process be discontinued and be replaced with a new process.

The above are just a few examples of the time and resources being spent by municipalities in the provincially created process chiefly aimed at waste disposal site approvals. If waste abatement activities are to be effectively pursued the waste management approvals process must be streamlined and made more certain. This will require the cooperation of all of the Ministries represented here today and several others as well.

Steamlining The Government Review

The waste management master plan study and approvals process includes extensive review by numerous provincial government bodies (review agencies). Municipal proponents and their consultants have identified a lack of government reviewer expectations and substantial delays in obtaining their response to submissions, as significant factors in making the process unnecessarily long, uncertain and expensive.

AMO has recommended that all government agencies involved in this review process establish explicit reviewer expectatio guidelines and make commitments to a 60 day time limit for review, as well as establishing an inter-agency dedicated review team of qualified staff for each project. These guidelines and commitments should issue in writing from the relevant Deputy Minister's office at the commencement of each study, or should be issued forthwith for studies now in progress. This written commitment should also explicitly recognize that if the 60 day time limit is not met, the reviewer agency shall be deemed to have no concerns with the proposal. These guidelines and commitments should be made for all municipal environmental assessments, not just for waste management. (See Recommendations #4 through #8 of "The Waste Management Planning and Approvals Process")

Generic Models

Identification and analysis of preferred waste management system alternatives bring out the most contentious aspects of the study process. Since consultation with government agencies and the public is a requirement, controversy over system and site selection creates seemingly limitless studies. There is a clear need for generic models establishing at least threshold criteria for the whole range of waste management facility alternatives (composting, landfill, recycling, refuse derived fuels, energy from waste).

The Ministry of the Environment began a study of such generic models more than a year ago. However, AMO has received no indication as to the progress of the study. The models created will only be useful if they can effectively aid in scoping the extent of alternative studies analysis to satisfy the Environmental Assessment Act requirements.

To this end AMO has recommended that the models created be listed in a regulation to the Environmental Assessment Act, as acceptable for use in fulfilling the requirements of that act. This should aid Ministry staff in fulfilling their roles as advisors to waste management master plan steering committees. This should also create greater certainty since the Environmental Assessment Board will be bound by the regulations and the models will provide the public with a clear expression of provincial standards as to what is acceptable. (See Recommendations #23 and #27 of The Waste management Planning and Approvals process")

Commitment to Support Accepted Studies

There is strong concern among proponents regarding inconsistent opinions from government staffs as to the acceptability of study work. Specifically, confusion seems to arise with the interaction between the Environmental Assessment Act process and planning under the Waste Management Master Plan Program. For municipalities the reality is that their planning studies must prepare them to win confrontational Environmental Assessment Board hearings for controversial waste management undertakings.

Without clear and committed acceptance of work completed at each stage of the process government staffs may ultimately act against approval at the submission stage and may even testify against a proponent at an Environmental Assessment Act hearing.

AMO has recommended that senior staff at the Waste Management Branch and the Environmental Assessment Branch issue commitment letters at the completion of each stage of the study expressing their entire satisfaction with the work completed to that stage and their commitment to support that work when the study is submitted for approval and at Environmental Assessment Board hearings. If the senior staff is not satisfied, they should issue a letter explaining exactly why the terms of reference of the study have not been met and what work will be required to be completed, including an estimated cost benefit analysis of that additional work. (See Recommendation #23 of The Waste Management Planning and Approvals Process")

AMO requests immediate action to institute:

- **A 60 day limit to government reviews of municipal waste management master plan and environmental assessment submissions .**
- **The creation of generic criteria models for waste management facilities and their inclusion in regulations under the Environmental Assessment Act.**
- **More active participation and guidance from government staffs in the master plan/environmental assessment process including the issuance of commitment letters for each stage of the process.**

AMO'S MUNICIPAL WASTE ABATEMENT STRATEGY

The consensus of the available literature on the subject of solid waste management clearly favours a hierarchy of reduction, reuse, recycling and recovery of waste (the 4Rs), in that order, as preferable over disposal in the long term. AMO supports that hierarchy, but many of the actions necessary to establishing systems based on that hierarchy require action at the provincial level.

The Ministry of The Environment (The Ministry) has not expressed clear support for that hierarchy. The Ministry so far has greatly over-emphasized Blue Box recycling above all other Rs in the hierarchy.

Recycling

The Blue Box recycling program was commenced pursuant to the relaxing of soft drink container regulations in 1985 to allow more non-returnable containers. The soft drink related industries formed Ontario Multi Materials Recycling Inc. (OMMRI) to promote Blue Box recycling. The current, and soon to be expanded, system provides 1/3 of the capital start up costs for municipal recycling programs from each of the Ministry and OMMRI. The Ministry supports operating costs on a gradually declining scale until they back out completely by the sixth year of operation. It is anticipated that in the long term, operating costs will be the most significant costs of municipal blue box recycling systems. Under the current funding scheme, with no OMMRI contribution to operating costs, and with only short term Ministry of the Environment funding for operating costs, municipalities will be paying the vast majority of the costs of recycling in the long term.

Even in the short run the Blue Box recycling programs have in reality been municipal programs rather than provincial or OMMRI programs. The Ministry of The Environment's budgeted funding for the Municipal Recycling Support program was 7.7 million dollars in 1988. This program is budgeted for 11.4 million dollars in 1989/90. An AMO survey of 44 municipalities indicates that the municipal spending for these 44 municipalities only was 9.8 million dollars in 1988 and 19 million dollars in 1989. This was largely spent by cities and towns and certainly does not include all municipalities with recycling programs.

The municipal experience has been that Blue Box recycling has high operating costs and low revenues. The expansion of Blue Box programs by having not only more Blue Boxes, but also more types of materials being collected, will likely create an even greater flow of recyclable materials into already flooded markets. There is no general requirement that industries either take responsibility for the long term costs of recycling their products, or that they provide markets for recyclables. The best estimates are that expanding Blue Box programs may divert about 20% of the total waste stream.

Aluminum, mostly in the form of soft drink cans, accounts for approximately 1.9% of the weight of materials collected from Blue Boxes, but accounts for about 42% of the total municipal revenues from sales of recyclable materials collected from Blue Boxes. Coke has recently decided to stop using aluminum and has ordered steel cans instead because aluminum costs them 15 cents more per case than steel. Recyclable steel will have a lower revenue producing potential than aluminum for municipal Blue Box programs. The Ministry has stated that municipalities must ensure a supply of materials before markets will develop, obviously municipalities cannot ensure such supplies when manufacturers change materials.

In March of 1989 the Minister of the Environment announced targets for waste diversion from landfill and incineration of 25% by 1992 and 50% by the year 2,000. AMO has been informed that a draft provincial waste abatement strategy, apparently aimed at achieving these goals, has been produced by the Ministry. We are aware that it is being considered by Cabinet. AMO hopes that the provincial waste abatement strategy will be a comprehensive and integrated plan reflecting the 4rs hierarchy, with implementation tools that go well beyond the Blue Box.

AMO has recommended that:

- the 1/3 funding formula be continued for all of the net long term costs, including capital and operating costs, of municipal recycling programs;

- recycling performance standards be developed and applied to all products and materials sold in Ontario that are not amenable to source reduction and re-use strategies and regulation;

- secondary material content regulations be established to ensure that adequate markets exist for materials recovered from the waste stream. (See recommendation #10 of The Municipal Waste Abatement Strategy).

AMO has also recommended that Ministry funding programs be reviewed with the goal of encouraging more balanced 4Rs activities. Because of the high public profile of Blue Boxes, municipalities themselves are expressing more demand for Blue Box program funding than reduction/reuse program funding. (See recommendation #4 of The Municipal Waste Abatement Strategy)

Energy From Waste

Recovery of waste, particularly energy from waste, has been removed from the Ministry's 4Rs framework. The Ministry now refers to the 3Rs. The Ministry has also indicated that energy from waste will not be included in the 25% and 50% waste diversion targets.

For Ministry of the Environment waste diversion target purposes, municipalities will be expected to plan to meet the targets without using waste recovery methods. However, the Environmental Assessment Act requires municipalities to consider all alternative technologies, including recovery. The Ministry of the Environment's own Waste Management Master Plan Program requires municipalities to identify candidate markets for recovered materials and energy. Municipalities therefore spend time and money examining controversial energy from waste alternatives that the Ministry will not consider as contributing toward meeting its targets. The Ministry's policy on waste diversion and recovery appears contrary to the integrity of the Environmental Assessment process.

The Ministry of Energy has funding programs for municipal energy from waste and has included municipal energy from waste in its long term plans for meeting Ontario's energy needs.

There is a need for a clear provincial government policy direction on the status of energy from waste and how it fits into the environmental assessment and waste management planning process. If no such policy direction is forthcoming, municipalities should not be required to consider waste recovery alternatives during their waste management master plan or environmental assessment studies.

Strategy Development

The development of a comprehensive waste abatement strategy for the entire province appears to be necessary if there is any hope of meeting the Ministry's diversion targets. AMO has recommended that the industries that create the materials and products that end up in the waste stream should be required to develop policies for their industries that will meet the targets. These policies should reflect the 4Rs hierarchy, be developed in consultation with AMO and the Ministry and estimate the total long term costs to all sectors of implementation of the policies. (See recommendation #6 of The Waste Abatement Strategy).

AMO requests immediate action to:

- **Amend the municipal recycling funding programs to continue the 1/3 funding formula to cover all capital and operating net long term costs.**
- **Provide a provincial government policy direction on recovery of waste, including energy from waste. If no such policy is forthcoming waste recovery should not be an alternative that requires study under the Environmental Assessment Act.**
- **Release a provincial waste abatement strategy that is a comprehensive and integrated plan reflecting the 4Rs hierarchy.**

STATUTORY REFORM OF MUNICIPAL AUTHORITY

The Municipal Act provides local municipalities with permissive authority to pass by-laws for the collection and disposal of garbage and ash. Recent amendments to this Act also allow counties to adopt such by-laws. The regional municipalities each have their own statute. Generally the region is required to provide disposal facilities and the area municipalities collect, but there are exceptions. Municipal authority for waste management activities varies widely across the province, even for municipalities of the same type.

Many municipalities are engaged in studies of, or actually implementing, waste management activities for which they have no clear statutory authority. Waste management is controversial and the environmental assessment process results in adversarial hearings. Municipalities are therefore subject to the risk that they will be legally challenged on the grounds that they have no statutory authority their waste management activities. This is an unnecessary risk since it is within the provincial jurisdiction to provide the needed statutory amendments.

The issue of inadequate statutory authority for municipal waste management activities was raised by AMO in the first report in the series "The Waste Management Planning and Approvals Process". AMO recommended a review of all relevant statutes with the purpose of amending them to assure that municipalities have sufficient waste management authority. The issue is relevant for "The Municipal Waste Abatement Strategy" report as well. Areas where clear authority is generally lacking include the following:

- Recycling,
- Power to direct waste,
- User pay fees,
- Power to require waste audits and right to inspect pursuant to waste by-laws,
- Powers re conversion of waste,
- Power to mandate source separation of commercial/industrial wastes,
- Inter-municipal acquisition of land for waste management purposes,
- Power to enter private property without owners' consent pursuant to waste planning studies.

AMO requests immediate action to amend all relevant statutes to provide municipalities with the authority necessary for all municipal waste management activities.

CONCLUSION

The waste management planning process, the waste abatement activities with the greatest potential, and the statutory authority for municipal and private waste management activities are under the jurisdiction of the provincial government.

AMO is committed to contributing to finding solutions to the waste management crisis. The AMO membership has been providing waste disposal services for a very long time and they know that if fair solutions are not found, municipalities and their property taxpayers will suffer the most. The Association believes that no government should spend any more taxpayers money than is truly necessary on subsidizing the creation of waste. A commitment from the provincial government to prioritize a resolution to the waste management crisis now, will allow both levels of government to more quickly return to concentrating on the many other important policies and valuable services they must provide.